

MEMO

DATE: July 3, 2003
TO: Energy and Environment Committee
FROM: Charles Keynejad, Senior Regional Planner, Environment Division
RE: Current Transportation Conformity Related Issues

RECOMMENDED ACTION: Information Only.

SUMMARY: SCAG staff have been monitoring and assessing the impact of the current transportation funding shortfall and conformity implications for the SCAG region. This memo analyzes current conformity issues regarding 1) amendments to the 2002 Regional Transportation Improvement Program (RTIP), 2) funds for the Traffic Congestion Relief Program (TCRP), and 3) negative effects of the funding shortfall beyond the year 2010.

BACKGROUND:

1. SCAG processes administrative amendments to the 2002 RTIP on a quarterly basis for exempt projects. These amendments do not jeopardize the region's conformity.

Any new conformity findings require the use of new emissions budgets, which will not be available until late 2003 or early 2004. The next conformity findings will be on the 2004 RTP and 2004 RTIP.

2. The TCRP funds programmed in the first two years of the 2002 RTIP are \$1.266 billion, compared to the TCRP allocated funds of \$494 million. If the State were to fully finance all projects funded with TCRP funds in the first two years of the 2002 RTIP (FY 2002/03 and 2003/04), there are no anticipated problems with the implementation of all projects, including the ones requiring federal action (approval or funding).

The State's official confirmation of a substantial funding shortfall may force the federal agencies to require the State and MPOs to examine their current RTPs and TIPs for the required financial constraint. (There is no federal guidance and no prior experience on this matter. Please see the attachment to this memo for some potential approaches to remedy this situation.)

3. All Transportation Control Measures (TCM) projects in the South Coast Air Basin (SCAB) area should be fully funded and implemented on schedule up to the year 2010 consistent with the 2001 RTP/2002 RTIP for two purposes: timely implementation of TCMs and attainment demonstration of the 2003 SIPs/AQMPs. Otherwise, non-compliance may jeopardize the conformity finding of the 2004 RTP/RTIP in the SCAB portion of the region.

ATTACHMENT – Discussion of Issues

1. Amendments to the 2002 RTIP

Between January 1, 2003 and June 8, 2004 when the conformity status of the 2001 RTP lapses, all amendments to the 2002 RTIP should be based on exempt projects (maintenance and safety projects). Any amendment impacting the design concept and scope of TCM or capacity enhancement projects, including the completion date, requires a conformity analysis and finding.

- Any new conformity analysis requires new emissions budgets, with EPA's adequacy finding. The air districts are in the process of completing the respective 2003 SIPs/AQMPs. It is anticipated that the new emissions budgets will be submitted to EPA by ARB between late 2003 and early 2004 for the various non-attainment areas in the SCAG region.
- The current applicable emissions budgets were developed with the old EMFAC models (EMFAC 7F and &7G). The new EMFAC model (EMFAC 2002) generates more emissions than the old models. SCAG can not use the EMFAC 2002 model and make conformity finding with the old emissions budgets.
- After EPA's action on the new 2003 SIPs, the conformity analysis based on the new emissions budgets and TCMs will be conducted for the 2004 RTP, and subsequently for the 2004 RTIP.

2. TCRP Funds

The Traffic Congestion Relief Program (TCRP) provides \$5.3 billion funds over the fiscal years 2000/01- 2005/06 to a specific list of projects statewide. SCAG's share of these TCRP funds is about \$2 billion. This amount was included in the federally conforming 2001 RTP / 2002 RTIP. Each of the six counties in the region has at least one project that is partially or fully financed by TCRP funds. The Governor's Proposed Budget May Revision for fiscal year 2003-04 includes a suspension statewide of \$938 million in TCRP funds for repayment by 2009. This suspension can severely impact SCAG's transportation conformity, specifically in regard to fiscal constraint.

- SCAG's 2002 RTIP includes a total of \$1.855 billion of TCRP funds, of which \$1.266 billion is programmed in the first two fiscal years (2002/03 and 2003/04). As of December 2002 (when allocations were suspended), about \$493 million of the TCRP funds had been allocated to projects in the SCAG region, of which about \$199 million have been spent.

The Governor's May Revision proposes \$207 million in additional funding statewide for projects with TCRP funds. The SCAG portion of this amount is not enough to fund the projects in the SCAG region that have TCRP funding. If the shortfall requires the County Transportation Commissions to amend either their TCM or non-TCM projects in the 2002 RTIP, it will not be feasible for SCAG to do a new conformity analysis.

- **Timely Implementation of TCMs in the 2004 RTP and 2004 RTIP**

All TCM projects funded in part or fully with TCRP funds are in the SCAB portion of the region. A total of \$1.407 billion of the TCRP funds is allocated over the six years of the 2002 RTIP to TCM projects, of which \$924 million or two-thirds of the total are allocated in the first two fiscal years (2002/03 and 2003/04). To pass the conformity tests for the 2004 RTP and the 2004 RTIP in the SCAB area, SCAG and its projects sponsors must demonstrate compliance with the timely implementation of TCMs. This means that all TCM projects in the first two years (fiscal years 2002/03 and 2003/04) of the 2002 RTIP must be reported as funded and on schedule.

To maintain the attainment demonstration status in the SCAB area, the TCM projects in the remainder of the 2002 RTIP period (FYs 2004/05 – 2007/08) should demonstrate that they are fully funded and on schedule. The TCMs from the 2001 RTP/ 2002 RTIP (up to the year 2010) are SCAG's contribution to the attainment demonstration of the SIPs in the SCAB area. Lack of compliance may jeopardize the 2004 RTP conformity finding.

- **Project implementation during FYs 2002/03 and 2003/04**

To implement all projects (TCMs and non-TCMs) in the first two years of SCAG's 2002 RTIP, a total of \$1.266 billion must be available to the project sponsors to cover the TCRP funds programmed. The State has allocated only \$494 million of the TCRP funds to the SCAG region. This is a great challenge for any project that may not have another source of funds. For projects with other source of funds, it is not possible to amend the 2002 RTIP for funding reallocation because most of these projects are TCMs and this would require a conformity analysis.

- **Official Announcement of TCRP Funding Shortfall and Conformity**

Since promulgation of the first Transportation Conformity Rule in 1993, there has been no experience with a severe State funding shortfall and its immediate implication on conformity status of the existing RTPs and TIPs. A general interpretation of the Transportation Conformity Rule leads us to wait for the next transportation conformity finding, which is the 2004 RTP. This time, SCAG and the project sponsors may encounter a new challenge once the State officially announces its funding shortfalls. In the absence of any federal guidance on this situation, the following questions/scenarios are worth exploring.

- Would the federal agencies suspend the conformity status of the current RTPs and TIPs and require a new conformity re-determination?

This is a worst case scenario. The new conformity findings should be based on the new emissions budgets that are anticipated for EPA adequacy finding in early 2004.

- Would the federal agencies approve any new 2002 RTIP Amendment through an Administrative Amendment for funding reallocation with no conformity finding?
- Would the federal agencies approve any project for funding reallocation without conformity analysis with a Letter of Commitment from the State referring to the Legislative Action for repayment of the TCRP funds, and have the Letter of Commitment constitute compliance with the financial constraint requirement?
- Would the federal agencies provide the State and its MPOs with a grace period up to the next scheduled conformity analysis, June 8, 2004 in the SCAG region?

So far, the federal agencies (FHWA and FTA) have been reluctant to clarify any position on the implication of the state shortfalls on conformity. This should be seen as an opportunity for a unified statewide strategy.

OCTA's CenterLine Project

As the results of the June 3 vote, the CenterLine project is no longer to go through the City of Irvine. The CenterLine is from Irvine to Santa Ana and its completion date is 12/31/2010.

- This project was included in the TCM projects used for the attainment demonstration in the 2003 SIP for SCAB and might have to go through a substitution process. A normal substitution process requires that the new TCM benefit the same vicinity, have equal or greater emission reduction benefits, be implemented in the same time frame as the old one, and be fully funded. It should go through interagency consultation and a review and comment period and be approved by SCAG's Regional Council. But there is an issue here. This substitution may require revisiting the current 2001 RTP and 2002 RTIP for the TCM amendment. This is not feasible due to the required conformity finding.

Due to the fact that forces other than the standard planning or financial process altered this TCM, it may be acceptable to the federal agencies (FHWA, FTA, and EPA) to incorporate the substituted TCM into the 2004 RTP/RTIP process. This requires consultation with the federal agencies. A coordinated effort by OCTA and SCAG would be more effective.

